

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

WEST COVINA UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2014040341

ORDER OF DETERMINATION OF
SUFFICIENCY OF DUE PROCESS
COMPLAINT

On April 04, 2014 Parent on behalf of Student (Student) filed a Due Process Hearing Request¹ (complaint) naming West Covina Unified School District (District).

On April 21, 2014, District filed a Notice of Insufficiency (NOI) as to Student's entire complaint.

APPLICABLE LAW AND DISCUSSION

The named parties to a due process hearing request have the right to challenge the sufficiency of the complaint.² The party filing the complaint is not entitled to a hearing unless the complaint meets the requirements of Title 20 United States Code section 1415(b)(7)(A).

Student's complaint alleges six claims in the complaint, which are all insufficiently pled as discussed below. Student's complaint is insufficiently pled in that it fails to provide District with the required notice of a description of the problem and the facts relating to the problem.

With respect to Issue One, Student does not provide any facts to support her claim. The claim does not refer to a specific individualized education program (IEP) or identify when she has made requests for changes. Further, Student has requested a change in placement to Lindamood-Bell. Lindamood-Bell is not a school.

¹ A request for a due process hearing under Education Code section 56502 is the due process complaint notice required under Title 20 United States Code section 1415(b)(7)(A).

² 20 U.S.C. § 1415(b) & (c).

With respect to Issue Two, Student does not provide enough information to support her claim. Student does not indicate whether this request is pursuant to an IEP, and if so, which one, and when did District fail to provide homework.

With respect to Issue Three, Student does not provide any claim at all, but simply states an opinion.

With respect to Issue Four, Student does not provide a claim. Student does not provide any information of why she looked at schools, when she looked at schools, and how Student's current placement is inappropriate.

With respect to Issue Five, Student does not provide a claim.

With respect to Issue Six, Student does not provide enough information to support a claim. Student has not indicated when this incident occurred, or why it requires a change in aide.

MEDIATOR ASSISTANCE FOR NON-REPRESENTED PARENTS: A parent who is not represented by an attorney may request that the Office of Administrative Hearings (OAH) provide a mediator to assist the parent in identifying the issues and proposed resolutions that must be included in a complaint.³ Parent is encouraged to contact OAH for assistance if she intends to amend her due process hearing request.

ORDER

1. Student's complaint is insufficiently pled under section Title 20 United States Code 1415(c)(2)(D).

2. Student shall be permitted to file an amended complaint under Title 20 United States Code section 1415(c)(2)(E)(i)(II).⁴

3. The amended complaint shall comply with the requirements of Title 20 United States Code section 1415(b)(7)(A)(ii), and shall be filed not later than 14 days from the date of this order.

4. If Student fails to file a timely amended complaint, the complaint will be dismissed.

3 Ed. Code, § 56505.

⁴ The filing of an amended complaint will restart the applicable timelines for a due process hearing.

5. All dates previously set in this matter are vacated.

DATE: April 21, 2014

/s/

JUDITH PASEWARK
Administrative Law Judge
Office of Administrative Hearings